

Congress of the United States
Washington, DC 20515

November 21, 2023

The Honorable Dr. Rahul Gupta
Director
Office of National Drug Control Policy
1800 G St. NW
Washington, DC 20006

Dear Director Gupta:

On November 1, 2023, you published an op-ed in the Washington Post calling on Congress to reauthorize Section 702 of the Foreign Intelligence Surveillance Act (FISA). In this op-ed, you advocated for Congress to re-authorize this controversial spying tool, and opposed common-sense bipartisan reforms, such as requiring the government to obtain a warrant before reading Americans' emails or accessing their location data. What you failed to disclose in the op-ed is that your office has—for more than a decade—quietly funded another dragnet surveillance program that has swept up information about millions of law-abiding Americans without meaningful Congressional or judicial oversight.

Details recently disclosed in a letter from Senator Ron Wyden to Attorney General Garland and reported by Wired fill in a truly disturbing picture of the one such program, the Hemisphere Project, a surveillance program funded by the Office of National Drug Control Policy (ONDCP) that was first revealed by the press in 2013. Under this program, government agents have warrantless access to trillions of Americans' domestic communications records dating back decades, including callers' Fourth Amendment-protected location information. According to Sen. Wyden's letter, although this surveillance program is funded by ONDCP, its use by the government is not limited to drug-related cases. Law enforcement agencies across the country are apparently able to submit Hemisphere queries using administrative subpoenas, which are not subject to judicial review, in support of any investigation.

The lawless Hemisphere spying program is a stark reminder that Congressional reform of government surveillance laws must go far beyond just Section 702 of FISA. The Hemisphere Project highlights major loopholes in federal law through which the government is able to spy on Americans without judicial oversight, such as the purchase of personal data. That is why it is critical that Congress enact the civil liberties protections outlined in the bipartisan, bicameral Government Surveillance Reform Act.

Americans are justifiably outraged that the Biden White House is buying their data without a court order, and I am concerned that this program is just the tip of the iceberg. To that end, please provide responses to the following no later than November 29, 2023:

1. Please identify each ONDCP-funded program in which Americans' non-public data is made available to government agencies.

2. To date, how has ONDCP ensured that the Hemisphere Project is operating consistent with the Fourth Amendment to the United States Constitution and federal privacy laws?
3. How many government agencies may request data from the Hemisphere Project?
4. Are there any warrantless surveillance programs comparable in model or scale to the Hemisphere Project?
5. Since White House funding for the Hemisphere Project resumed in 2022:
 - a. How many requests have been submitted?
 - b. How many call records have been provided to government agencies?
 - c. How many different phone identifiers have been provided to government agencies?
 - d. How much money has the White House paid to entities to facilitate the operation of Hemisphere?
 - e. How much has AT&T been paid pursuant to Hemisphere?
6. For what purposes may a government agency request Hemisphere data?
7. Are government agencies required to purge information requested from Hemisphere or are they permitted to retain it for future use? If the former, please describe how this is enforced.
8. Please provide any documents that informed the Biden Administration's decision to continue federal funding for Hemisphere under the name "Data Analytical Services.
9. Other government disclosures reveal consistent misuse of warrantless surveillance powers, including to spy on activists, minority groups, political rivals, and even love interests. How does the government identify and address such misuses of Hemisphere, and what instances have been identified?

Sincerely,



Andy Biggs
Member of Congress